

By: Zaffirini

S.B. No. 2299

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the temporary board of and financing of certain
3 facilities and improvements by the LaSalle Municipal Utility
4 District No. 5; providing authority to impose an assessment.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 8476.052(a) and (b), Special District
7 Local Laws Code, are amended to read as follows:

8 (a) The temporary board consists of:

9 (1) Jack Wilhelm;

10 (2) David Tuckfield;

11 (3) Jon Cobb;

12 (4) Bob Ruggio; and

13 (5) Adam Van Ackeren [~~On or after the effective date of~~
14 ~~the Act enacting this chapter, the owner or owners of a majority of~~
15 ~~the assessed value of the real property in the district may submit a~~
16 ~~petition to the commission requesting that the commission appoint~~
17 ~~as temporary directors the five persons named in the petition. The~~
18 ~~commission shall appoint as temporary directors the five persons~~
19 ~~named in the petition].~~

20 (b) Temporary directors serve until the earlier of:

21 (1) the date permanent directors are elected under
22 Section 8476.003; or

23 (2) the fourth anniversary of the effective date of
24 their designation [~~the Act enacting this chapter].~~

1 SECTION 2. Chapter 8476, Special District Local Laws Code,
2 is amended by adding Subchapter F to read as follows:

3 SUBCHAPTER F. ASSESSMENTS; APPLICABILITY OF ASSESSMENTS

4 Sec. 8476.251. PETITION REQUIRED FOR FINANCING
5 IMPROVEMENTS AND RECREATIONAL FACILITIES WITH ASSESSMENTS. (a)
6 Except as provided by this subchapter, the board may finance the
7 construction or maintenance of a recreational facility or
8 improvement with assessments on property under this subchapter only
9 if:

10 (1) a written petition requesting that facility or
11 improvement has been filed with the board; and

12 (2) the board holds a hearing on the proposed
13 assessments.

14 (b) The petition must be signed by the owners of a majority
15 of the assessed value of real property in the district subject to
16 assessment according to the most recent certified tax appraisal
17 roll for the county.

18 Sec. 8476.252. MISCELLANEOUS DESIGN, CONSTRUCTION, AND
19 MAINTENANCE. An improvement or recreational facility project may
20 include the planning, design, construction, improvement, and
21 maintenance of:

22 (1) landscaping;

23 (2) marinas and bridges;

24 (3) lighting, banners, and signs;

25 (4) hiking and cycling paths or trails;

26 (5) sidewalks, pedestrian walkways, skywalks,
27 crosswalks, or tunnels;

- 1 (6) ponds, lakes, recreational facilities, or scenic
- 2 areas;
- 3 (7) plazas or pedestrian malls;
- 4 (8) drainage or navigation improvements; or
- 5 (9) solid waste, water, sewer, or power facilities,
- 6 including electrical and gas power facilities.

7 Sec. 8476.253. METHOD OF NOTICE FOR HEARING. The district

8 shall mail notice of the hearing to each property owner in the

9 district who will be subject to the assessment at the current

10 address to be assessed as reflected on the tax rolls. The district

11 may mail the notice by certified or first class United States mail.

12 The board shall determine the method of notice.

13 Sec. 8476.254. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) An

14 assessment or a reassessment imposed under this subchapter by the

15 district, penalties and interest on an assessment or reassessment,

16 an expense of collection, and reasonable attorney's fees incurred

17 by the district:

18 (1) are a first and prior lien against the property

19 assessed;

20 (2) are superior to any other lien or claim other than

21 a lien or claim for county, school district, or municipal ad valorem

22 taxes; and

23 (3) are the personal liability of and a charge against

24 the owners of the property even if the owners are not named in the

25 assessment proceedings.

26 (b) The lien is effective from the date of the board's

27 resolution imposing the assessment until the date the assessment is

1 paid. The board may enforce the lien in the same manner that the
2 board may enforce an ad valorem tax lien against real property.

3 (c) The board may make a correction to or deletion from the
4 assessment roll that does not increase the amount of assessment of
5 any parcel of land without providing notice and holding a hearing in
6 the manner required for additional assessments.

7 Sec. 8476.255. UTILITY PROPERTY EXEMPT FROM ASSESSMENTS.

8 The district may not impose an assessment on the property,
9 including the equipment, rights-of-way, facilities, or
10 improvements, of:

11 (1) an electric utility or a power generation company
12 as defined by Section 31.002, Utilities Code;

13 (2) a gas utility as defined by Section 101.003 or
14 121.001, Utilities Code;

15 (3) a telecommunications provider as defined by
16 Section 51.002, Utilities Code; or

17 (4) a person who provides to the public cable
18 television or advanced telecommunications services.

19 SECTION 3. Section 2, Chapter 503, Acts of the 83rd
20 Legislature, Regular Session, 2013, is amended to read as follows:

21 Sec. 2. The LaSalle Municipal Utility District No. 5
22 initially includes all the territory contained in the following
23 area:

24 DESCRIPTION OF A TRACT OF LAND CONTAINING 272.071 ACRES OF
25 LAND OUT OF THE WILLIAM HEMPHILL SURVEY, ABSTRACT NO. 221, SITUATED
26 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THE 811.38 ACRE TRACT
27 CONVEYED TO LASALLE HOLDINGS LTD., BY DEED OF RECORD IN VOLUME 2909,

1 PAGE 684, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID
2 272.071 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND
3 BOUNDS AS FOLLOWS:

4 BEGINNING AT A 1/2-INCH IRON ROD FOUND AT THE MOST SOUTHERLY
5 CORNER OF SAID 811.38 ACRE TRACT, SAID POINT BEING THE NORTHERLY
6 COMMON CORNER OF THE 305 ACRE TRACT CONVEYED TO CEDAR STUMP LP, BY
7 DEED OF RECORD IN VOLUME 1489, PAGE 800, OF SAID OFFICIAL PUBLIC
8 RECORDS, AND OF THE 199.17 ACRE TRACT CONVEYED TO KYLE THREE
9 PARTNERS LP, BY DEED OF RECORD IN VOLUME 2940, PAGE 195, OF SAID
10 OFFICIAL PUBLIC RECORDS, FOR THE MOST SOUTHERLY CORNER AND POINT OF
11 BEGINNING HEREOF;

12 THENCE, ALONG THE COMMON LINE OF SAID 199.17 ACRE TRACT, AND
13 OF SAID 811.38 ACRE TRACT, GENERALLY WITH A BARBED WIRE FENCE, THE
14 FOLLOWING THIRTEEN (13) COURSES AND DISTANCES:

15 1) N54°50'51"W, A DISTANCE OF 771.35 FEET TO A FOUND 1/2-INCH
16 IRON ROD;

17 2) S82°34'23"W, A DISTANCE OF 840.87 FEET TO A FOUND 1/2-INCH
18 IRON ROD;

19 3) N52°52'15"W, A DISTANCE OF 690.88 FEET TO A FOUND 1/2-INCH
20 IRON ROD;

21 4) N62°34'40"W, A DISTANCE OF 68.98 FEET TO A FOUND 1/2-INCH
22 IRON ROD;

23 5) N68°34'23"W, A DISTANCE OF 56.45 FEET TO A FOUND 1/2-INCH
24 IRON ROD;

25 6) N72°57'43"W, A DISTANCE OF 88.21 FEET TO A FOUND 1/2-INCH
26 IRON ROD;

27 7) N73°27'40"W, A DISTANCE OF 53.90 FEET TO A FOUND 1/2-INCH

1 IRON ROD;
2 8) N78°51'26"W, A DISTANCE OF 427.41 FEET TO A FOUND 1/2-INCH
3 IRON ROD WITH "BYRN" CAP;
4 9) N88°42'40"W, A DISTANCE OF 82.89 FEET TO A FOUND 1/2-INCH
5 IRON ROD WITH "BYRN" CAP;
6 10) S89°20'36"W, A DISTANCE OF 252.54 FEET TO A FOUND WOOD
7 FENCE POST;
8 11) N78°22'26"W, A DISTANCE OF 289.01 FEET TO A FOUND WOOD
9 FENCE POST;
10 12) N70°19'37"W, A DISTANCE OF 133.26 FEET TO A FOUND
11 1/2-INCH IRON ROD;
12 13) N65°54'03"W, A DISTANCE OF 1059.47 FEET TO A 1/2-INCH
13 IRON ROD FOUND ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY
14 ROAD 158 (UNDEDICATED RIGHT-OF-WAY), AS USED ON THE GROUND;
15 TENCE ALONG THE COMMON LINE OF SAID 811.38 ACRE TRACT AND OF
16 THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 158, THE
17 FOLLOWING TWO (2) COURSES AND DISTANCES:
18 1) N42°58'24"E, A DISTANCE OF 3,243.10 FEET TO A FOUND
19 1/2-INCH IRON ROD;
20 2) N42°52'47"E, A DISTANCE OF 570.78 FEET TO A CALCULATED
21 POINT;
22 TENCE OVER AND ACROSS SAID 811.38 ACRE TRACT THE FOLLOWING
23 TWO (2) COURSES AND DISTANCES:
24 1) S45°40'51"E, A DISTANCE OF 942.00 FEET TO A CALCULATED
25 POINT;
26 2) S46°24'34"E, A DISTANCE OF 3,289.74 FEET TO A CALCULATED
27 POINT ON THE NORTHWESTERLY LINE OF SAID 305 ACRE TRACT;

1 THENCE ALONG THE COMMON LINE OF SAID 811.38 ACRE TRACT AND OF
2 SAID 305 ACRE TRACT, S43°29'59"W, A DISTANCE OF 1,830.79 FEET THE
3 POINT OF BEGINNING, AND CONTAINING 272.071 ACRES OF LAND, MORE OR
4 LESS.

5 ~~[FIELD NOTE DESCRIPTION OF 275.81 ACRES OF LAND OUT OF THE WILLIAM~~
6 ~~HEMPHILL SURVEY ABSTRACT No. 221 IN HAYS COUNTY, TEXAS, BEING A~~
7 ~~PORTION OF THAT CERTAIN (811.38 ACRE) TRACT OF LAND AS CONVEYED TO~~
8 ~~LASALLE HOLDINGS, LTD. BY SPECIAL WARRANTY DEED RECORDED IN VOLUME~~
9 ~~2909 PAGE 684 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS,~~
10 ~~AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS~~
11 ~~FOLLOWS:~~

12 ~~[BEGINNING FOR REFERENCE at a capped iron rod found (marked~~
13 ~~"ProTech") in the Northwest line of the Old San Antonio Road for the~~
14 ~~most Easterly corner of that certain (811.38 acre) tract of land as~~
15 ~~conveyed to LaSalle Holdings by Special Warranty Deed recorded in~~
16 ~~Volume 2909 Page 684 of the Official Public Records of Hays County,~~
17 ~~Texas,~~

18 ~~[THENCE with the Southeast line of said LaSalle Holdings (811.38~~
19 ~~acre) tract, S 48 deg. 44' 13" W 178.85 ft. to a capped iron rod~~
20 ~~found (marked "Byrn") at the point of intersection with the curving~~
21 ~~Northwest right-of-way line State Highway No. 21,~~

22 ~~[THENCE with the Northwest right-of-way line of State Highway No.~~
23 ~~21, the following two (2) courses,~~

24 ~~[1) along a curve to the left with a radius of 5779.51 ft. for~~
25 ~~an arc length of 830.52 ft. and which chord bears S 52 deg. 53' 22" W~~
26 ~~829.80 ft. to a PK nail found in a broken concrete monument for a~~
27 ~~point of tangency,~~

1 ~~[2) S 48 deg. 46' 22" W 1475.74 ft. to a 1/2" iron rod found~~
2 ~~for the most Southerly corner of said LaSalle Holdings (811.38~~
3 ~~acre) tract,~~

4 ~~[THENCE leaving the Northwest right-of-way line of State Highway~~
5 ~~No. 21 with a Southerly line of said LaSalle Holdings (811.38 acre)~~
6 ~~tract, the following two (2) courses,~~

7 ~~[1) N 45 deg. 31' 36" W 2950.62 ft.,~~

8 ~~[2) S 44 deg. 02' 00" W 1300.00 ft. to a point for an Easterly~~
9 ~~angle corner and PLACE OF BEGINNING of the herein described tract of~~
10 ~~land,~~

11 ~~[THENCE continuing with a Southerly or Southeasterly line of said~~
12 ~~LaSalle Holdings (811.38 acre) tract, S 44 deg. 02' 00" W 1863.28~~
13 ~~ft. to a point for the most Southerly corner of this tract,~~

14 ~~[THENCE continuing with a Southerly line of said LaSalle Holdings~~
15 ~~(811.38 acre) tract, the following thirteen (13) courses,~~

16 ~~[1) N 54 deg. 17' 20" W 771.66 ft.,~~

17 ~~[2) S 83 deg. 08' 18" W 840.88 ft.,~~

18 ~~[3) N 52 deg. 17' 55" W 690.89 ft.,~~

19 ~~[4) N 62 deg. 00' 02" W 69.27 ft.,~~

20 ~~[5) N 68 deg. 09' 41" W 56.18 ft.,~~

21 ~~[6) N 72 deg. 20' 49" W 88.29 ft.,~~

22 ~~[7) N 73 deg. 00' 27" W 53.89 ft.,~~

23 ~~[8) N 78 deg. 17' 31" W 427.31 ft.,~~

24 ~~[9) N 88 deg. 16' 13" W 82.92 ft.,~~

25 ~~[10) S 89 deg. 50' 43" W 252.84 ft.,~~

26 ~~[11) N 77 deg. 42' 55" W 289.03 ft.,~~

27 ~~[12) N 69 deg. 45' 12" W 133.17 ft.,~~

1 ~~[13) N 65 deg. 20' 24" W 1059.29 ft. to a point in the~~
2 ~~Southeast line of Hays County Road No. 158 for the most Westerly~~
3 ~~corner of said LaSalle Holdings (811.38 acre) tract and being the~~
4 ~~most Westerly corner of this tract,~~

5 ~~[THENCE with the Southeast line of Hays County Road No. 158 and with~~
6 ~~the Northwest line of said LaSalle Holdings (811.38 acre) tract,~~
7 ~~the following two (2) courses,~~

8 ~~[1) N 43 deg. 32' 03" E 3243.31 ft. to a 1/2" iron rod found,~~

9 ~~[2) N 43 deg. 26' 25" E 605.66 ft. to a point for the most~~
10 ~~Northerly corner of this tract, and from which a capped iron rod~~
11 ~~found (marked "Byrn") in the Southeast line of Hays County Road No.~~
12 ~~158 and in the Northwest line of said LaSalle Holdings (811.38 acre)~~
13 ~~tract bears N 43 deg. 26' 25" E 482.55 ft,~~

14 ~~[THENCE crossing the interior of said LaSalle Holdings (811.38~~
15 ~~acre) tract with the Northeast line of this tract, S 45 deg. 39' 03"~~
16 ~~E 4231.53 ft. to the PLACE OF BEGINNING, containing 275.81 acres of~~
17 ~~land.]~~

18 SECTION 4. (a) All governmental and proprietary actions of
19 the LaSalle Municipal Utility District No. 5 taken before the
20 effective date of this Act, including the creation of the district,
21 the consent to create the district granted by the City of San
22 Marcos, the consent agreement relating to the district and any
23 amendments to that agreement, and any extension of time in which to
24 hold a confirmation election for the district, are validated,
25 ratified, and confirmed in all respects.

26 (b) This section does not apply to any matter that on the
27 effective date of this Act:

1 (1) is involved in litigation if the litigation
2 ultimately results in the matter being held invalid by a final court
3 judgment; or

4 (2) has been held invalid by a final court judgment.

5 SECTION 5. (a) The legal notice of the intention to
6 introduce this Act, setting forth the general substance of this
7 Act, has been published as provided by law, and the notice and a
8 copy of this Act have been furnished to all persons, agencies,
9 officials, or entities to which they are required to be furnished
10 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
11 Government Code.

12 (b) The governor, one of the required recipients, has
13 submitted the notice and Act to the Texas Commission on
14 Environmental Quality.

15 (c) The Texas Commission on Environmental Quality has filed
16 its recommendations relating to this Act with the governor, the
17 lieutenant governor, and the speaker of the house of
18 representatives within the required time.

19 (d) All requirements of the constitution and laws of this
20 state and the rules and procedures of the legislature with respect
21 to the notice, introduction, and passage of this Act are fulfilled
22 and accomplished.

23 SECTION 6. For purposes of Section 8476.052(b)(2), Special
24 District Local Laws Code, as amended by this Act, the effective date
25 of the temporary directors' designation is the effective date of
26 this Act.

27 SECTION 7. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2017.